

**City of York Board of Zoning Appeals  
Minutes  
October 10, 2022**

**Members Present:**

Chairperson James Ramere  
Rodney Blair  
Jill Neff  
Becca Caldwell

**Members absent:**

Bryant Brown  
Myra Sinz  
Strauss Shiple

**Others present:**

Planning Director Breakfield  
Zoning Administrator Blackston  
Planner Kim Womble  
(See sign – in sheet)

Chairperson James Ramere called the meeting to order at 6:00 pm.

**The first item of business** was approval of the draft Minutes from the September 19, 2022 meeting. Upon a Motion by Jill Neff, seconded by Rodney Blair, the Board of Zoning Appeals (BZA) unanimously approved the Minutes as submitted.

**The second item of business** was a variance request regarding setback requirements for a detached garage at 204 Wilson Avenue.

Chairperson Ramere convened a public hearing regarding the application, announced an order of business for the public hearing and requested that City staff provide information regarding the application.

Zoning Administrator Blackston indicated the following regarding the application:

1. The applicant is Jon Simpson and the property is referenced by York County Tax Map Id # 0702004003.
2. The property is currently zoned R15 – Restricted Residential.
3. Per the Zoning Ordinance Dimensional Requirements section, there is a minimum side setback requirement of 10 feet in the R15 – Restricted Residential Zoning District.
4. The applicant proposes to build a 22 ft. X 35 ft. garage on his property per the provided site plan. Per the site plan, the applicant desires a 0 ft. setback and the building would project 1.35 ft. onto the adjacent property.
5. The applicant requested a variance from the 10 ft side setback per the attached application and supporting information. As background information, the smallest side setback previously approved by the BZA was 5 ft., with the condition that a surveyed foundation plat be submitted that verified compliance with the required setback.

6. Action on this application was previously tabled at the September 19<sup>th</sup> BZA meeting as described in the provided meeting Minutes. Mr. Simpson has provided a signed agreement between himself and his next-door neighbor, Mr. Carl Wray. The City Attorney has reviewed the agreement and found it legally adequate; however, Mr. Wray called the department after he received his adjacent property letter and indicated that he was very reluctant to agreeing to allow any construction or overhang on his property. He was advised to be present at the meeting on Monday to express his concerns. We have advised Mr. Simpson of Mr. Wray's concerns.
7. As the variance application and supporting information are reviewed, the BZA must be mindful that the following criteria must be met before a variance can be issued. **The criteria should be included and addressed in a BZA Motion:**
  - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
  - b. These conditions do not generally apply to other property in the vicinity;
  - c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
  - d. The authorization of a variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance.
8. Please be mindful that the BZA has a maximum of 75 days from the initial public hearing regarding this application to make a decision regarding such applications; otherwise, the application is deemed approved.
9. If the application is denied by the BZA, the same application cannot be submitted again for a period of at least one (1) year.
10. The BZA must conduct a public hearing(s), receive public feedback and make a final decision on the matter. The public hearing for this application is scheduled for this meeting.
11. As with all public hearings, the agenda was posted to a local newspaper, the City's website and at York City Hall; all adjacent property owners were notified by mail; the Public Hearing was duly advertised in a local newspaper and Public Hearing signage was posted on each affected property.

After closing the public hearing, discussion by the BZA and upon a Motion by Becca Caldwell, seconded by Rodney Blair, the BZA unanimously denied the variance request due to the conditions of the property not prohibiting or unreasonably restricting the utilization of the property.

**The third item of business** was a special exception request regarding Working Theory Beer Company LLC brewpub to be located at 16 East Liberty Street.

Chairperson Ramere convened a public hearing regarding the application, announced an order of business for the public hearing and requested that City staff provide information regarding the application.

Planning Director Breakfield indicated the following regarding the application:

1. As Chairperson Ramere noted, the third item of business is a special exception application for a proposed brewpub - Working Theory Beer Company, LLC - to be located at 16 East Liberty Street.
2. The applicant is Working Theory Beer Company, LLC and the property is referenced by York County Tax Map Id # 0701101011.
3. The property is currently zoned B1- Central Business.
4. The Zoning Ordinance specified that proposed brewpubs in the B1 – Central Business District must be reviewed through the special exception process via the Board of Zoning Appeals.

5. A brewpub is defined as a tavern or restaurant that produces on the permitted premises a minimum of 100 and a maximum of 2000 barrels per year, respectively. A minimum of 25% of the barrel production must be sold on the premises.
6. Since the property is located in the City's Local Historic District, please note that the applicant was given approval for exterior renovations and signage per the provided certificate of appropriateness application at the August 1st Board of Architectural Review meeting (subject to your approval of the special exception application).
7. Action on this application was previously tabled at the August 8<sup>th</sup> BZA meeting as described in the provided meeting Minutes; subsequently, the applicant requested a continuance until the October 10<sup>th</sup> BZA meeting
8. The applicant has requested approval of the special exception application and supporting information provided in the meeting packet. The packet included information submitted after the August 8<sup>th</sup> BZA meeting.
9. As the special exception application and supporting information are reviewed, the BZA must be mindful that the following criteria must be met before a special exception can be issued. **The criteria should be included and addressed in a BZA Motion.**
  - a. The proposed design and location of the particular development.
  - b. The possible traffic-generating characteristics of the proposed development.
  - c. The effects of the proposed development on the present or intended character of the area in which it is proposed for location.
  - d. The availability of public utilities, facilities and services.
10. Please be mindful that the BZA has a maximum of 75 days from the initial public hearing regarding this application to make a decision regarding such applications; otherwise, the application is deemed approved. The granted continuance would affect the typical 75-day review period.
11. If the application is denied by the BZA, the same application cannot be submitted again for a period of at least one (1) year.
12. The BZA must conduct a public hearing(s), receive public feedback and make a final decision on the matter. The public hearing for this application is scheduled for this meeting.
13. As with all public hearings, the agenda was posted to a local newspaper, the City's website and at York City Hall; all adjacent property owners were notified by mail; the Public Hearing was duly advertised in a local newspaper and Public Hearing signage was posted on each affected property.

After closing the public hearing, discussion by the BZA and upon a Motion by Becca Caldwell, seconded by Jill Neff, the BZA unanimously approved the special exception per the submitted information.

There being no further business, the meeting was adjourned at 6:45 pm.

Respectfully submitted,

C. David Breakfield Jr., MCP, AICP  
Planning Director

Amanda C. Blackston  
Zoning Administrator

cc: City Manager Seth Duncan  
File- Board of Zoning Appeals 10/10/2022